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10/756,086	01/13/2004	Christopher L. Oesterling	GP-304326	3111

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EXAMINER

REGO, DOMINIC E

ART UNIT

PAPER NUMBER

2618

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/756,086

**Applicant(s)**

OESTERLING, CHRISTOPHER L.

**Examiner**

DOMINIC E. REGO

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is responsive to the application filed on 11/06/2008.

Claims 1-20 are pending and presented for prosecution.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lange et al. (US Patent #6,704,564).

**Regarding claims 1,11, and 16,** Lange teaches a method of initiating a vehicle data upload function at a plurality of mobile vehicles, the method comprising:

monitoring a radio system broadcast channel using a satellite radio receiver (*Col 1, lines 14-39, Col 3, lines 50-66, and Col 4, lines 9-26, especially Col 1, lines 24-39, Lange teaches in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle*

*position (e.g., a Global Positioning System (GPS) receiver or GLObal NAVigation Satellite System (GLONASS) receiver), and a data/cellular transceiver. The in-vehicle device communicates locations-specific information to the service center) in each of the plurality of mobile devices for a call center initiated vehicle data upload command signal sent to the plurality of mobile vehicles (Col 4, lines 9-26; Col 5, lines 6-41: Lange teaches the trigger configuration signal 150 is transmitted from a service center or call center 170 that communicates with a plurality of telecommunication device. The telecommunications device 110 receives the trigger configuration signal 150 and preferably stored in memory 130. The trigger configuration signal 150 is an electronic message (data upload command signal related to vehicle or system properties, speed, temperature, system status, or position etc.) that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. The configuration signal 150 preferably comprises a command instructing the device to update (upload) its trigger configuration. The command preferably specifies a particular telematics functions to which the trigger configuration signal applies (e.g., traffic reporting, fleet management, vehicle diagnostics, etc.); and,*

*for each of plurality of mobile vehicles, determining whether the vehicle data upload command signal corresponds to that mobile vehicle (Col 4, lines 9-26; Col 5, lines 6-41: Lange teaches the trigger configuration signal 150 is transmitted from a service center or call center 170 that communicates with a plurality of telecommunication device. The telecommunications device 110 receives the trigger configuration signal 150 and preferably stored in memory 130. The trigger configuration*

*signal 150 is an electronic message (data upload command signal related to vehicle or system properties, speed, temperature, system status, or position etc.) that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. The configuration signal 150 preferably comprises a command instructing the device to update (upload) its trigger configuration. The command preferably specifies a particular telematics functions to which the trigger configuration signal applies (e.g., traffic reporting, fleet management, vehicle diagnostics, etc.);*

*extracting the vehicle data upload command signal from the broadcast channel based on the determination (Col 4, lines 9-26; Col 5, lines 6-26, especially Col 4, lines 9-26, Lange teaches the trigger configuration signal 150 is an electronic message (data upload command signal) related to vehicle or system properties, speed, temperature, system status, or position etc) that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. Each message trigger is an expression that defines one or more conditions that must be satisfied for the telecommunications device 110 to transmit a message 140 to a service center 170. The conditions are preferably based upon fixed parameters (e.g., vehicle or system properties) or dynamic values (e.g., speed, temperature, system status, or position) available to the telecommunications device 110 via sensors and/or other data input);*

*communicating the vehicle data upload command signal between the satellite radio receiver and a telematics unit on the vehicle (Col 1, lines 14-39: Lange teaches in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle*

*speed, et cetera (etc.)), an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver or GLObal NAVigation Satellite System (GLONASS) receiver). Col 5, lines 6-41: Lange teaches the telematics device 210 preferably includes a wireless transceiver 220 (transmitter and GPS receiver or GLONASS receiver where command signal receives from telematics antenna) that receives a configuration signal (vehicle data upload command signal) 250 from a service center (not shown) where telematics unit 210 includes GPS receiver to receive a configuration signal. The configuration signal 250 preferably comprises a command instructing the device to update (upload) its trigger configuration); and*

*performing a vehicle data upload function using the telematics unit based on the extracted vehicle data upload command signal (Col 5, lines 27-63: Lange teaches the telematics device 210 preferably includes a wireless transceiver 220 that receives a configuration signal 250 from a service center (not shown). The configuration signal 250 preferably comprises a command instructing the device to update (upload) its trigger configuration. The command preferably specifies a particular telematics functions to which the trigger configuration signal applies (e.g., traffic reporting, fleet management, vehicle diagnostics, etc.). The configuration signal 250 comprises a dynamic logic expression 262. The configuration signal 250 instructs the telematics device 210 to update a trigger configuration so as to transmit a message relating to fleet management if the dynamic logic expression 262 is satisfied. Dynamic logic expression 263 relates to vehicle diagnostics and comprises the following expression: "If OIL\_TEMPERATURE>150)." A message is transmitted by the telematics device 210*

*relating to the applicable telematics function if the dynamic logic expression associated with that function is satisfied).*

**Regarding claims 2,12,and 17**, Lange teaches the method further comprising:  
determining the plurality of mobile vehicles at a call center based on a service criterion (Col 5, lines 5-26).

**Regarding claim 3**, Lange teaches the method wherein the vehicle data upload function comprises a vehicle data type (Col 5, lines 26-42).

**Regarding claim 4**, Lange teaches the method wherein the vehicle data upload command signal comprises at least one telematics unit identifiers *(Col 5, lines 5-10: Lange teaches the trigger configuration signal 150 is transmitted from a service center 170 that communicates with a plurality of telecommunications devices (telematic devices). In order to communicate with a plurality of telecommunication devices (telematic devices), a service center 170 or call center must have an identification number of telematics unit for providing services).*

**Regarding claims 5,13,and 18**, Lange teaches the method wherein performing the vehicle data upload function comprises:

initiating a vehicle data upload call from a telematics unit in the plurality of mobile vehicles to a call center in response to the vehicle data upload command signal *(Col 3, lines 34-47).*

**Regarding claims 6,14,19**, Lange teaches the method wherein performing the vehicle data upload function comprises: initiating a vehicle data storage of data collected by the vehicle in at least one of the plurality of mobile vehicles in response to

the vehicle data upload command signal (Col 3, lines 15-25; Col 5, lines 11-26; Col 5, line 64-Col 6, line 5).

**Regarding claim 7**, Lange teaches the method wherein the vehicle data upload command signal is associated with a vehicle type (Col 5, lines 27-63; Col 6, lines 6-26).

**Regarding claim 8**, Lange teaches the method wherein the vehicle data upload command signal is generated in response to a geographic based diagnostic event (Col 5, line 27-Col 6, line 26).

**Regarding claim 9**, Lange teaches the method wherein the vehicle data type is selected from a group consisting of vehicle performance data, vehicle diagnostic data, vehicle status data, and vehicle operational data (Col 4, lines 9-26; Col 5, line 27-Col 6, line 26).

**Regarding claims 10,15, and 20**, Lange teaches the method wherein determining at the plurality of mobile vehicles whether the vehicle data upload command signal corresponds to the mobile vehicle comprises:  
comparing the plurality of telematics unit identifiers of the vehicle data upload command signal to a telematics unit identifier the mobile vehicle; and detecting if one of the plurality of telematics unit identifiers of the vehicle data upload command signal matches the telematics unit identifier of the mobile vehicle (*Col 5, lines 5-lines 62: Lange teaches the trigger configuration signal 150 is transmitted from a service center 170 that communicates with a plurality of telecommunications devices where each of the telecommunication devices or telematic devices have a identifier identify the trigger configuration signal*).



4. Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Response to Arguments***

5. Applicant's arguments filed 11/06/2008 have been fully considered but they are not persuasive. Applicant argues that Lange fails to disclose the subject matter of Applicant's current claims involves monitoring a radio system broadcast channel at a satellite radio receiver. The Examiner disagrees. Col 1, lines 24-39, Lange teaches in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver or GLObal NAVigation Satellite System (GLONASS) receiver), and a data/cellular transceiver. The in-vehicle device communicates locations-specific information to the service center. Col 1, lines 54-66, Lange teaches telematics devices providing FCD service frequently check certain conditions, based on the sensors available to the device (e.g., vehicle location and

speed). If defined threshold values are passed, a message is sent to a service center. This message contains data that allows the service center to deduct information about the traffic flow in the vehicle's vicinity. Col 4, lines 9-26, Lange teaches a trigger configuration signal 150 is transmitted to the telecommunications device 110 and preferably stored in memory 130. The trigger configuration signal 150 is an electronic message that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. That means telematic device 110 (fig. 1) constantly monitoring a radio system broadcast channel and vehicle condition based on the sensors available. Applicant argues that Lange is silent as to Applicant's claimed subject matter reciting a satellite radio receiver detecting a vehicle data upload command signal and communicating that signal to a telematics device. The Examiner disagrees. Col 3, lines 40-47, Lange teaches Telematics systems generally comprise a plurality of in-vehicle telematics devices wirelessly connected to a service center. The telematics device generally communicates location-specific information to the service center, and in turn the service center communicates with the telematics device via a cellular telephone interface. Col 1, lines 27-35, Lange teaches the typical telematics system includes a number of in-vehicle telematics devices that are connected wirelessly to a central service center. The in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver or GLObal Navigation Satellite System (GLONASS) receiver), and a data/cellular transceiver. So a

satellite radio receiver included in the telematics device for detecting a vehicle data upload command signal (See Col 4, lines 9-26; Col 5, lines 6-41). Lange discloses satellite radio receiver is embedded within telematics unit and Applicant claimed that both are separate devices. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Lange device to Applicant device, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichmena*, 168 USPQ 177, 179.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DOMINIC E. REGO** whose telephone number is

(571)272-8132. The examiner can normally be reached on Monday-Friday, 8:30 am-5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc M. Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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